



July 13, 2021

**VIA ELECTRONIC
MAIL**

Chair Frank De Rego, Jr.,
Vice Chair Roberta “Bobbie” Patnode,
Commissioner Randol Leach,
Commissioner Mark Redeker,
Commissioner Emmett Rodrigues,
Commissioner Matthew Mano,
Commissioner Janet Kuwahara,
Commissioner Stacey Moniz,
Commissioner Travis Tancayo

c/o Executive Officer
Maui Police Commission
55 Mahalani Street
Wailuku, Hawai‘i 96793
mauipolicecommission@mpd.net

Re: Ten Questions for the Next Chief of Police

Dear Chair De Rego, Jr., Vice Chair Patnode, and Maui Police Commissioners:

The appointment of a new chief of police marks a turning point for Maui County as it is a unique opportunity for the leadership of the Maui Police Department (MPD) to regain the trust of the people they serve.

We recently observed the one-year anniversary of the murder of George Floyd by a police officer. We are still grieving the murder of Breonna Taylor who was killed by police officers during a no-knock raid while she slept—she would have celebrated her 28th birthday last month. In 2020 alone, police nationwide killed 1,127 people.¹ There were only 18 days that year in which a police officer did *not* kill someone. And last year over 10,000 people marched to the Hawai‘i State Capitol to protest police violence.

Maui is not immune to the types of police misconduct we see on the continent. In 2011, a former Maui police officer was convicted of stealing money from a motorist and sexually

¹ <https://mappingpoliceviolence.org>

assaulting a woman, while in uniform.² In 2012 a local journalist was arrested for recording police conducting a traffic stop on Maui, with the officers wrongly claiming he was interfering with a government operation. The Hawai'i Supreme Court ruled in the journalist's favor in 2017.³ Last year Maui police officers misused force as they tased Maurice Abisdid-Wagner multiple times, even as they heard him repeatedly pleading, "I'm going to die." Mr. Abisdid-Wagner later tragically died at the hospital.⁴ Two months ago, Former Maui County police officer Brandon Saffeeles pleaded guilty in federal court to seven counts of honest services wire fraud, admitting that he solicited sex from a woman he arrested in exchange for providing false testimony in her trial.⁵ And of course, most recently, Former Maui Police Chief Faaumu has been investigated for a hit and run.⁶

These challenges are systemic throughout policing in Hawai'i. It has only been a matter of months since the killings of two people of color—Iremamber Sykap and Lindani Myeni—by Honolulu Police Department (HPD) officers in situations that have provided more questions than answers, including with the release of additional footage in the killing of Mr. Myeni. We have seen local report⁷ after report⁸ after report⁹ after report¹⁰ about disparities in use of force and arrests based on race, right here in Hawai'i. Former Honolulu Police Chief

² ["Former MPD officer, Galon sentenced to 18 months,"](#) September 12, 2011 in Maui Now.

³ ["Chad Blair: A Maui publisher notches a First Amendment win,"](#) December 21, 2017 in Civil Beat.

⁴ ["Man dies after arrest on Maui, body cam footage released,"](#) August 14, 2020 on KITV4.

⁵ ["Ex-MPD officer pleads guilty to soliciting sex in exchange for providing false testimony,"](#) May 5, 2021 on Hawai'i News Now.

⁶ ["Maui police chief involved in hit-and-run incident,"](#) November 18, 2020 on KITV4.

⁷ ["Racial disparities emerge in HPD enforcement of stay-at-home violations,"](#) June 29, 2020 on Hawai'i Public Radio.

⁸ ["HPD Chief says there's less racial bias in Hawai'i. She's wrong,"](#) June 29, 2020 in Civil Beat.

⁹ ["Honolulu Police Commission questions disparities in use of force,"](#) February 7, 2021 in the Star Advertiser.

¹⁰ ["HPD's use of lethal force is near the US average. But there's far more to the story,"](#) June 1, 2021 in Civil Beat.

Kealoha has just begun his prison sentence for corruption.¹¹ But he still hasn't taken responsibility for his crimes as he now denies committing them, even though he'd previously admitted to them in federal court.¹² Police Chief Raybuck on Kaua'i was reprimanded and forced to apologize after making openly racist statements.¹³ Former Chief Ballard has acknowledged that hundreds of HPD officers abused overtime, the Honolulu city council is calling for an audit¹⁴, and a federal investigation of the police regarding how they spent federal CARES Act funding is ongoing.¹⁵ And most recently, one police officer has been charged with murder and two more have been charged with attempted murder for the killing of Iremamber Sykap.¹⁶ And yet despite all this, when Governor Ige signed legislation last year to finally provide some transparency into officer misconduct, SHOPO immediately went to court to try to stop it.¹⁷

For all these reasons, and to aid the Commission in making the important decision of who will lead MPD in the coming years, we are writing to request that you pose ten timely and relevant questions about civil liberties to all candidates for the position of police chief. The answers to these questions will hopefully inform the Commission's decision making and help define MPD's relationship to the public moving forward.

The Charter for the County of Maui establishes MPD and provides that the police chief is the department's administrative head. Charter of the County of Maui (the "Charter") § 8-12.3. Among the duties and functions assigned to the chief is the "protection of rights of

¹¹ ["Former Honolulu police chief Louis Kealoha begins prison sentence in Oregon,"](#) June 2, 2021 on KHON2 news.

¹² ["Ex-HPD chief begins 7-year prison sentence for crimes he now denies,"](#) June 1, 2021 on Hawai'i News Now.

¹³ ["Kaua'i police chief suspended for 5 days following alleged racist comments,"](#) April 16, 2021 on Hawai'i News Now.

¹⁴ ["In internal video, police chief says 263 officers abused overtime policy,"](#) February 27, 2021 on Hawai'i News Now.

¹⁵ ["Feds examining Honolulu police CARES spending on ATVs, robot dog,"](#) March 9, 2021 in Civil Beat.

¹⁶ ["A Honolulu officer is charged with murder in the shooting of a 16-year old,"](#) June 16, 2021 on National Public Radio.

¹⁷ ["SHOPO tries again to keep officer misconduct secret,"](#) November 12, 2020 in Civil Beat.

persons.” Charter § 8-12.4. Thus, while the Charter tasks the police chief with the responsibility to judiciously enforce the law, it also mandates that the chief give due regard for the constitutional (and other) rights of the people of Maui.

Additionally, neither the Charter nor the Maui Code of Ordinances lays out with any specificity how the chief of police must carry out these goals, leaving the chief broad discretion to “[t]rain, equip, maintain and supervise” officers and other MPD employees. Charter § 8-12-4. Given that MPD has almost exclusive authority and discretion on the lawful use of force on Maui, carrying out these duties is a solemn responsibility.

Importantly, the general public on Maui does not have a direct say in selecting the chief of police. Instead, as an added layer of independence, this responsibility rests with the Commission, which can appoint and remove the chief of police for any reason after being given due process. Charter § 8-12.3. This means the chief of police serves at the Commission’s pleasure and that you are ultimately responsible for ensuring, on behalf of the public, that the chief of police is properly carrying out MPD’s mission of enforcing the law *and* respecting the constitutional rights of the people of the County of Maui.

As our community faces enduring challenges, the role of the new chief of police in helping or hurting each individual’s fundamental rights under the Hawai‘i and United States constitutions cannot be overstated. The new chief will need to ensure that use of force does not continue to disproportionately impact our Native Hawaiian, Pacific Islander, and Black community members. The new chief will need to set a new course for transparency within the police department, including how and how quickly footage from body cameras will be made public. The new chief will play a key role in guaranteeing the right to due process, the right to counsel, the right to remain silent, and the right to be secure against unreasonable searches and seizures. The new chief will need to ensure the people’s right of free speech and the right to protest are respected. As military-grade equipment and more intrusive surveillance tools become available, the new chief will decide whether and how MPD should use these tools. The new chief of police will set the culture and enforcement priorities of MPD: thus, the new chief will ultimately be either part of the problem or part of the solution in addressing prison overcrowding and the overrepresentation of people who are Native Hawaiian, Pacific Islander, Black, houseless, indigent, or otherwise marginalized in our correctional system.

Finally, the new chief must be able to admit when MPD has done things wrong and acknowledge where there are opportunities for improvement. This would be a sign of strength, not weakness.

For these reasons, the appointment of a new chief of police is a powerful moment for rebuilding the trust in MPD leadership and mission. To ensure the next chief of police

understands and is committed to respecting civil rights, we respectfully request that the Commission pose the following ten questions to all candidates for the position:

- 1) Do you acknowledge that systemic racism and implicit bias exist in the criminal legal system in Hawai'i, including in policing, and that discrimination based on race occurs in Hawai'i, including in policing?
- 2) What is your plan to eliminate racial disparities in policing in Hawai'i, especially with respect to people who are Native Hawaiian, Pacific Islander, Black, people with disabilities, people who are houseless, and other groups who are disproportionately impacted by police compared to their population numbers?
- 3) Do you support an independent prosecuting unit for cases where people are killed by police, sexually assaulted by police, the victims of excessive force by police, and other police misconduct cases?
- 4) Are you committed to being part of the solution to end mass incarceration and overcrowding in Maui's jails by supporting criminal legal system reforms that reduce incarceration, decriminalize poverty, focus on rehabilitation, and reduce recidivism? Examples of these types of reforms include, among other things, Law Enforcement Assisted Diversion (LEAD), the Department of Health Hawai'i CARES program, and the Crisis Assistance Helping Out On The Streets (CAHOOTS) program that is being used in Oregon.
- 5) Will you implement a robust conflict-of-interest policy (and related training, supervision, and disciplinary protocols) that will apply to all police officers in the execution of their duties?
- 6) Are you committed to ensuring that the public knows how the police department functions, including through improved and disaggregated data collection in electronic form and the adequate disclosure and reporting of all incidents involving the use of force, the use and deployment of surveillance technology, the use of body cameras, and confirmed incidents of police misconduct?
- 7) Do you commit to developing and implementing a community engagement plan that includes communities of color, immigrant community-based organizations, and criminal legal reform advocates in the development of your first 100-day plan?

- 8) Are you committed to guaranteeing the right of free speech and the right to protest by taking meaningful actions to protect these rights? Meaningful actions would include issuing policies, training law enforcement, creating oversight, and holding officers accountable so that the police will not interfere with these rights in public places. Further meaningful actions include never engaging in mass arrests, never using surveillance technology on protesters, never using military-grade equipment to control crowds, always respecting the public's right to record the police, and working to de-escalate tensions between protesters and the police.
- 9) Are you committed to guaranteeing the right to due process, the right to counsel, the right to remain silent, and the right to be secure against unreasonable searches and seizures by taking meaningful actions to protect these rights? Meaningful actions would include issuing policies, training law enforcement, creating oversight, and holding officers accountable so that the police will not: stop someone without reasonable suspicion; arrest someone without probable cause; search someone or their property without a warrant (whenever such warrant is required); or fail to inform someone of their Miranda rights. Further meaningful actions include being honest and truthful in court, following proper procedures in taking law enforcement actions, and turning over exculpatory evidence to the prosecuting attorneys so that it can be disclosed to the defense.
- 10) Because police should not be at war with the communities they are meant to serve, are you committed to ending the excessive militarization of the police force by imposing meaningful restraints and adopting best practices on the use of SWAT and similar tactical teams, ending the acquisition of military style weapons and vehicles, and eliminating the use of no-knock or quick-knock raids that often result in harm to both civilians and police officers?

While not exhaustive, these questions will hopefully begin a conversation about the role of MPD in protecting civil rights that will help the public regain their trust in MPD's leadership and mission. We also hope you will take into consideration not only the candidates' answers to these questions, but also their past actions and proven commitments to protecting civil liberties. In our experience, actions speak louder than words.

The ACLU of Hawai'i remains a resource to the Commission for any additional information you may need on these matters, including model policies, best practices, and procedures. We will continue to monitor the police in our role to defend and preserve the rights and liberties guaranteed by our state and federal constitutions, and appreciate your attention to the important issues raised in our request.

Sincerely,



Joshua Wisch
Executive Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.